रजिस्ट्री सं० डी०एल०-33004/93 REGISTERED No. DL-33004/93

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 17] नई दिल्ली, सोमवार, मार्च 29, 1993/चैत्र 8, 1915
No. 17] NEW DELHI, MONDAY, MARCH 29, 1993/Chaitra 8, 1915

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 29th March, 1993:—

Bill No. XXIV of 1993

A Bill furher to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1993. Short title.

19 of 1952

2. In the long title to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the principal Act), for the words "family pension fund", the words "pension fund" shall be substituted. Amendment of long title.

3. In section 2 of the principal Act,— Amendment of section 2.

(*a*) clauses (*gg*) and (*ggg*) shall be omitted;

(*b*) after clause (*k*), the following clauses shall be inserted, namely:—

'(*kA*) "Pension Fund" means the Employees' Pension Fund established under sub-section (*2*) of section 6A;

(*kB*) "Pension Scheme" means the Employees Pension Scheme framed under sub-section (*1*) of section 6A;';

(*c*) after clause (*l*), the following clause shall be inserted, namely:—

'(*ll*) "superannuation", in relation to an employee, who is the member of the Pension Scheme means the attainment, by the said employee, of the age of fifty-eight years'.

Substitution of the word "Pension" for the words "Family Pension".

4. In the principal Act, for the words "Family Pension", wherever they occur, the word "pension" shall be substituted.

Substitution of a new sections for section 6A and 6B.

5. For sections 6A and 6B of the principal Act, the following section shall be substituted, namely:—

Employees Pension Scheme.

"6A. (*1*) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Pension Scheme for the purpose of providing for—

(*a*) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and

(*b*) widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees.

(*2*) Notwithstanding anything contained in section 6, there shall be established, as soon as may be after training of the Pension Scheme, a Pension Fund into which there shall be paid, from time to time, in respect of every employee who is a member of the Pension Scheme,—

(*a*) such sums from the employer's contribution under section 6, not exceeding eight and one-third per cent., of the basic wages, dearness allowance and retaining allowance, if any, of the concerned employees, as may be specified in the Pension Scheme;

(*b*) such sums as are payable by the employers of exempted establishments under sub-section (*6*) of section 17;

(*c*) the net assets of the Employees' Family Pension as on the date of the establishment of the Pension Fund.

(*3*) On the establishment of the Pension Fund the Family Pension Scheme (hereinafter referred to as the ceased scheme) shall cease to operate and all assets of the ceased scheme shall vest in and transferred to, and all liabilities under the ceased scheme shall be enforceable against, the Pension Fund and the beneficiaries under the ceased scheme shall be entitled to draw the benefits, not less than the benefits they were entitled to under the ceased scheme, from the Pension Fund.

(*4*) The Pension Fund shall vest in and be administered by the Central Board in such manner as may be specified in the Pension Scheme.

(5) Subject to the provisions of this Act, the Pension Scheme may provide for all or any of the matters specified in Schedule III.

(6) The Pension Scheme may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in that behalf in that scheme.

(7) A Pension Fund Scheme, framed under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.".

Amendment of section 6C.

6. In section 6C of the principal Act,—

(*a*) sub-section (3) shall be omitted;

(*b*) clause (*b*) of sub-section (4) shall be omitted.

Amendment of section 17.

7. In section 17 of the principal Act,—

(*a*) for sub-section (*1C*), the following sub-section shall be substituted, namely:—

"(*1C*) The Central Government may, by notification in the Official Gazette, and subject to such conditions as may be specified therein, exempt any establishment or class of establishments from the operation of the Pension Scheme if the employees of such establishment or class of establishments are either members of any other income-tax approved pension scheme or proposes to be members of such approved pension scheme, where the pensionary benefits are at par or more favourable than the Pension Scheme under this Act.";

(b) in sub-section (6), words "as well as the employees's contribution" shall be omitted.

Substitutions of new Schedule for Schedule III.

8. For Schedule III to the principal Act, the following Schedule shall be substituted, namely:—

'SCHEDULE III

[*See* section 6A(5)]

MATTERS FOR WHICH PROVISION MAY BE MADE IN THE PENSION SCHEME

1. The employees or class of employees to whom the Pension Scheme shall apply.

2. The time within which the employees who are not members of the Family Pension Scheme under section 6A as it stood before the

commencement of the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1993 (hereinafter, in this Schedule, referred to as the amending Act) shall opt for the Pension Scheme.

3. The portion of employers' contribution to the Provident Fund which shall be credited to the Pension Fund and the manner in which it is credited.

4. The minimum qualifying service for being eligible for pension and the manner in which the employees may be granted the benefits of their past service under section 6A as it stood before the commencement of the amending Act.

5. The regulation of the manner in which, the period of service for which no contribution is received.

6. The manner in which employees' interest will be protected against default in payment of contribution by the employer.

7. The manner in which the accounts of the pension fund shall be kept and investment of moneys belonging to pension fund to be made subject to such pattern of investment as may be determined by the Central Government.

8. The form in which an employee shall furnish particulars about himself and the members of his family whenever required.

9. The forms, registers and records to be maintained in respect of employees, required for the administration of the Pension Scheme.

10. The scale of pension and pensionary benefits and the conditions relating to grant of such benefits to the employees.

11. The manner in which the exempted establishments have to pay contribution towards the Pension Scheme and the submission of returns relating thereto.

12. The mode of disbursement of pension and arrangements to be entered into with such disbursing agencies as may be specified for the purpose.

13. The manner in which the expenses for administering the Pension Scheme will be met from the income of the Pension Fund.

14. Any other matter which is to be provided for in the Pension Scheme or which may be necessary or proper for the purpose of implementation of the Pension Scheme.'.

STATEMENT OF OBJECTS AND REASONS

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Act 19 of 1952) provides for institution of compulsory Provident Fund, Family Pension Fund and Deposit-Linked Insurance Fund for the benefit of the employees in factories and other estalishments employing twenty or more persons. The Act presently applied to 174 categories of industries and classes of establishments. As on 31st March, 1992, about 2.12 lakh establishments with about 16.6 million subscribers were covered under the Act.

2. In August, 1990, the Central Board of Trustees of Employees' Provident Fund had set up a Tripartite Committee to draw up a suitable Pension Scheme for the subscribers under the Act. The Committee submitted their Report in December, 1990. The Central Board of Trustees, approved a Pension Scheme, as contained in the above Report, and recommended it to the Central Government for acceptance.

3. The Central Government have accepted the recommendations of the Committee and propose to introduce a comprehensive pension scheme of Social Security. It is proposed to amend the Act for the purpose to empower the Central Government to frame an Employees' Pension Scheme retrospectively or prospectively providing, *inter alia*, for the following:—

(*i*) superannuation pension, retiring pension, permanent total disablement pension, widow or widower's pension, children pension or orphan pension;

(*ii*) creation of a Pension Fund without any extra contribution from either employers or employees, but by diverting 8.33 per cent. of the existing contribution from the employers' share of provident fund to the Pension Fund from the date the Pension Scheme comes into force;

(*iii*) transfer of all assets and liabilities of the existing Family Pension Fund in the proposed Pension Fund.

4. The Bill seeks to achieve the above objects.

P. A. SANGMA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The new section 6A of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 proposed to be inserted *vide* clause 5 of the Bill seeks to empower the Central Government to frame the Employees' Pension Scheme for the purpose of providing superannuation pension, retiring pension, permanent total disablement pension to the employees and also widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees covered under the Act. Under the Employees' Pension Scheme which will be framed by the Central Government, the various matters which are to be provided therein are enumerated in the new Schedule III proposed to be inserted *vide* clause 8 of the Bill.

2. Clause 7 of the Bill seeks to empower the Central Government to exempt any establishment or class of establishments having any other income-tax approved scheme, subject to the conditions as may be specified in the notification.

3. The provisions to be made in the Employees' Pension Scheme under the Act will contain matters of detail and day-to-day working e.g., the employees or class of employees to whom the Scheme shall apply, the portion of employers' contribution to be credited to the pension fund, the scales of superannuation pension, retiring pension, permanent total disablement pension, children pension and orphan pension to be paid to the employees and their beneficiaries and the mode of disbursement thereof and other like matters.

4. The delegation of legislative power is, thus, of a normal character.

SUDARSHAN AGARWAL,
Secretary-General.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1993.